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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-second session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1259th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 11 March 1998, at 10 a.m.

Chairman: Mr. ABOUL-NASR

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Thirteenth periodic report of Lebanon (continued)

ORGANIZATIONAL AND OTHER MATTERS (continued)

Draft general recommendation

* The summary record of the second part (closed) of the meeting appears as document CERD/C/SR.1259/Add.1.

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GE.98-15536 (E)

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Thirteenth periodic report of Lebanon (CERD/C/298/Add.2; HRI/CORE/1/Add.27/Rev.1) (continued)

1. At the invitation of the Chairman, the delegation of Lebanon resumed places at the Committee table.

2. The CHAIRMAN invited the delegation of Lebanon to reply to the questions put to it the day before by Committee members.

3. Mr. MAAMARI (Lebanon), of the Ministry of Foreign Affairs, wished to clarify what Mr. Garvalov had seen as a contradiction, namely, the fact that Lebanon was a unitary State but possessed community laws and courts. He explained that Lebanon was a unitary State in the sense that there was one Constitution, one legislature and one Government. Although the members of a given religious community could be more numerous in one region than in another, no territory was reserved exclusively for specific groups.

4. The 18 officially recognized religious communities had been invited to submit their codes of personal status to Parliament. The codes and the community courts dealt solely with issues relating to marriage and descent. With regard to succession, there were on the one hand specific rules for each of the Muslim communities and on the other a uniform civil law that had been enacted by Parliament in 1957 and applied to all non-Muslim communities.

5. Under the Constitution, all Lebanese were equal before the law, namely, equal before all laws that did not concern marriage, descent or succession. Thus instruments such as the Criminal Code and the Civil Code applied to all citizens.

6. Political and administrative positions were shared among the various communities according to a quota system.

7. With regard to the incorporation of the provisions of the Convention into positive Lebanese law, he explained that international treaties that had been ratified by Lebanon entered into force by virtue of the exchange of instruments of ratification in the case of bilateral treaties, and by virtue of the deposit of instruments of ratification or accession in the case of multilateral treaties. In the hierarchy of norms, such treaties had a higher standing than the law.

8. With regard to the implementation of the Convention, he said that according to some of its provisions - article 7, for example - the State party was required to adopt certain measures in different areas. As long as the State party had not adopted such measures, by decree or through draft legislation, article 7 could not be said to have been implemented. The State did not, however, incur any legal sanctions.

9. Other provisions of the Convention could be implemented immediately by the competent authorities. Thus, if the Government promulgated a decree that ran counter to the Convention, it could be revoked by the Council of State on the grounds that it was not in conformity with the Convention. On the other hand, a criminal court could not sentence an agent of the State to prison for having flouted a given article of the Convention unless the penalty was expressly provided for in the Criminal Code, since the Convention indicated neither the nature nor the duration of the penalty to be imposed. It was a question of the principle of the legality of offences and penalties.

10. Articles 317 and 318 of the Criminal Code penalized acts that provoked religious or racial dissension. Other instruments, notably the Constitution, regarded the communities rather as religious groups. For example, the Evangelical community was not an ethnic group. The Greek Catholics, known as Melchites, and the Greek Orthodox community were not Greek, nor even of Greek descent. They were known as Greeks because of their Byzantine liturgy. In addition, a person could switch communities, for example, on marriage or for reasons of inheritance. Thus, for the purposes of marriage, Christians of the Roman persuasion paid virtually no attention to the fact that one of the engaged couple was a member of a different community.

11. The community leaders were men of religion. Politicians, even though they might be elected or appointed on the basis of their membership of a given community, did not consider that they represented that community alone. The President of the Republic, for example, represented all Lebanese.

12. Since the establishment of the Constitutional Council on 14 July 1993, in accordance with new article 19 of the Constitution, community leaders could request the Council to revoke any law that was contrary to the Constitution if it infringed freedom of conscience, for example, or freedom of religious worship or religious teaching.

13. Recognition of the communities did not constitute an infringement of the Convention because the intention was to protect the interests of all and not to deprive one group or another of its rights, which would contravene article 1, paragraph 1 of the Convention. As Mr. de Gouttes had said, it was an original case, in which article 1, paragraph 4 of the Convention was applied to all groups at the same time. As Mr. Valencia Rodríguez had pointed out, the system had ensured stability in the country and no one could blame the Lebanese for having adopted it.

14. On the other hand, if the distribution of political and administrative positions among the communities on the basis of specific quotas was deemed to constitute racial discrimination in the sense of article 1, paragraph 1 of the Convention, the system should be called into question and article 316 of the Lebanese Criminal Code revoked. Article 316 prohibited associations whose aim was to alter the economic or social structure of the State or the basis of society. Its real target was groups promoting communism or fascism.

15. Replying to Mr. Valencia Rodríguez, he said that confessionalism had achieved its aims insofar as it had made it possible for the communities to take part in the political and administrative life of the country. According

to the preamble of the Constitution, balanced regional development in cultural, social and economic terms was a basic pillar of the unity of the State and the stability of the regime.

16. The elimination of the system of confessionalism had been called for in the Taif Agreement. According to article 95 of the Constitution, parliamentary seats had initially been shared equally among Muslims and Christians. A national committee composed of, inter alia, the President of the Republic and political, intellectual and social personages, was to study ways of eliminating confessionalism and submit its conclusions to Parliament. Such changes would of course not take place overnight, since they depended on the political and military situation in the country. Part of southern Lebano and the Bekaa Valley were still occupied by the Israeli army, contrary to the terms of Security Council resolution 425.

17. The right to move freely within Lebanese territory was enshrined in the preamble to the Constitution. There were plans to rehouse people who had bee displaced during the troubles in Lebanon. A programme to that effect was under way and there had been no opposition from the people concerned. The only barrier was financial. Funds were needed to meet the needs of those who wished to go back to their homes and whose homes had been damaged, and to hel those who would have to leave housing which did not belong to them. In addition, schools would have to be opened and infrastructures established. Those who had been dispossessed would recover their property without difficulty as it had been duly recorded in the land register.

18. A ministry for displaced persons had been established.

19. He said that there was no policy in Lebanon to naturalize Palestinians. Indeed, the Palestinians refused to be naturalized, in line with the League o Arab States decision on that question. In that regard, the Convention did no apply to refugees who received assistance from an international organization such as the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). The original intention had been for Lebanon to contribute around 0.6 per cent of UNRWA's budget. In practice, Lebanon was paying the rent on the land where the Palestinian camps had been built.

20. Lebanon drew a distinction between the armed Palestinians who had taken an active part in the first phase of the war in Lebanon, and its Palestinian residents, who were not considered agitators.

21. Property ownership on the part of foreigners was subject to quotas, chiefly because Lebanese territory was not very extensive. The quotas were applied to all foreigners and did not constitute a refusal to sell goods or services on racist grounds.

22. The delegation of Lebanon would communicate to the competent authoritie the Committee's recommendation that, in accordance with article 14 of the Convention, Lebanon might recognize the competence of the Committee to receiv and consider communications from individuals or groups of individuals claimin to be victims of a violation by the State party of any of the rights set fort in the Convention. Lastly, the technical questions that had been asked would be communicated to the competent authorities and answered in the next report.

23. Mr. YUTZIS said that, after having heard the Lebanese delegation's replies, he wished to make a further comment.

24. It seemed that, in Lebanon, the distinction between membership of an ethnic group and religious creed remained rather unclear, which could of course be explained by the particular situation prevailing in that country. There were certainly other examples elsewhere in the world of religion and membership of an ethnic group being confused, often for political reasons: he was thinking particularly of the case of the former Yugoslavia.

25. However, in Lebanon's case such imprecision raised the question of who really had the political power. On the evidence, political power was currently divided up on the basis of religious criteria, since it was in fact shared between Maronite Christians and Muslims and, as the delegation of Lebanon had stated, the possibility of moving from a bi-confessional regime to another system was still very remote, for the situation was rooted in constitutional custom. Power-sharing between two religions might of course seem preferable to domination by a single religion, but it was nevertheless the case that, if changes were not made, political discrimination would inevitably occur in Lebanon insofar as the other communities would never be able to accede to power.

26. The CHAIRMAN, speaking in his capacity as a Committee member, said that the same problem arose in other countries. The main thing was that the system in force was acceptable to all. Gradual evolution was in any case preferable to revolution. Some members of the Committee had questioned whether a quota-based solution in both the political and the administrative spheres was compatible with the principles of the Convention. One answer to that was that quotas were also a way of ensuring the representation of minorities who would otherwise be systematically excluded from public life. The same issue had arisen in Egypt in seeking to ensure the fair representation of women or of the Coptic minority in Parliament.

27. With regard to the Palestinians, the important thing was that they had the right to choose between returning and receiving compensation. Undoubtedly the majority of them would above all wish to exercise their right to self-determination on their own territory and would not wish to obtain Lebanese nationality.

28. The practical solutions that were applied to such problems should be judged in the light of the particular situation in the countries concerned.

29. Mr. GARVALOV (Country Rapporteur), summarizing the debate, said that delays in the submission of the reports were understandable considering the political, economic, social and psychological difficulties the State party had experienced: Lebanon could not be expected to meet all its obligations under the Convention at one time.

30. The dialogue that had been established with Lebanon had been most fruitful and the Committee had particularly appreciated the copious information on the implementation of article 1 of the Convention, which States parties tended to neglect in their reports. Of particular interest were the details concerning the implementation of article 1, paragraph 4.

31. On the other hand, insufficient information had been given concerning the implementation of articles 4 and 6 and the Committee would have liked more details of the remedies available to individuals who were victims of discrimination. The only legal provisions cited were those of articles 317 and 318 of the Criminal Code, which gave effect to article 4 of the Convention. Lastly, the report said practically nothing about the implementation of article 7, despite the fact that the article dealt with the very important question of combating discrimination in the educational and cultural spheres, an area in which the State party was required to take positive steps. It would be highly desirable for Lebanon to supply information on that subject in its next report, as the Committee had just initiated a joint study on the issue with the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

32. He had not been completely satisfied with the explanations given as to the overlap between membership of an ethnic group and religious creed, although he respected the State party's official position on the subject. In particular, the assertion that Greeks - whether Catholic or Orthodox - living in Lebanon were Greek in no more than name and were primarily characterized by their adherence to the Byzantine liturgy, seemed something of an exaggeration. He himself had visited the country several times and had met Greeks who spoke Greek perfectly well, and not only at church. Similarly the Kurds were undoubtedly Muslims, but they also constituted a completely separate community.

33. The confusion between membership of an ethnic group and religious confession doubtless had its origins in the particular situation of the country, but when the Lebanese asserted that that was "part of the democratic system", one could only give them the benefit of the doubt.

34. Nevertheless, he once again expressed his gratitude to the delegation of Lebanon for its spirit of cooperation and hoped that it would be able to report further progress when it next appeared before the Committee.

35. Mr. MAAMARI (Lebanon) wished to take the floor once more in order to reply to Mr. Yutzis' comment. He thanked the Chairman for having anticipated him by pointing out the advantage the quota system might have over universal suffrage in maintaining a balance between the various communities and maintaining civil peace. He drew Mr. Yutzis' attention to the fact that, although the quota system had been maintained for high public office, no position was specifically reserved for a given creed, contrary to what happened with the highest political offices.

36. With regard to the confusion between religious and ethnic communities, the two things did in fact usually coincide. One characteristic case was that of the Armenians. In that respect he begged to differ with Mr. Garvalov's comment on the Greek community: as a Greek Catholic himself, he could assure him that his fellow believers rarely spoke Greek.

37. The CHAIRMAN thanked Mr. Maamari for his explanations and announced that the Committee had completed its consideration of the thirteenth periodic report of Lebanon.

38. The delegation of Lebanon withdrew.

The meeting was suspended at 11.20 a.m. and resumed at 12.55 p.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (continued)

Draft general recommendation

39. Mr. DIACONU requested Committee members to take note of document CERD/C/51/Misc.43, which was a draft general recommendation on the collection of data concerning ethnic minorities or groups, and to communicate to him any comments so that he could improve the text.

The meeting rose at 1 p.m.

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-second session

SUMMARY RECORD OF THE 1260th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 11 March 1998, at 3 p.m.

Chairman: Mr. YUTZIS

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Eleventh to fourteenth periodic reports of Yugoslavia

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GE.98-15526 (E)

In the absence of Mr. Aboul-Nasr, Mr. Yutzis, Vice-Chairman, took the Chair.

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Eleventh to fourteenth periodic reports of Yugoslavia (CERD/C/299/Add.17; HRI/CORE/1/Add.40)

1. At the invitation of the Chairman, Mr. Hodza, Mrs. Savovic, Mr. Milosevic, Mr. Djordjevic and Mrs. Nikolic (Yugoslavia) took places at the Committee table.

2. Mr. HODZA (Yugoslavia) stressed the importance that the Federal Republic of Yugoslavia attached to compliance with the Convention. It had enjoyed fruitful cooperation with the Committee and with the Committee's 1993 good offices mission, whose report had been both objective and positive.

3. Yugoslavia was a signatory to all major international human rights conventions and made every effort to meet its reporting obligations under the various instruments. The period covered by the report (CERD/C/299/Add.17) had been a time of fundamental change in terms of population and the social, economic and political situation of the country. Those changes had made it difficult for Yugoslavia to fulfil its obligations under international conventions.

4. The Federal Republic of Yugoslavia, with its two constituent Republics of Serbia and Montenegro, had continued the international personality of the former Yugoslavia and, despite extremely unfavourable circumstances, including international isolation, conflict, severe sanctions and the burden of 700,000 refugees from Croatia and Bosnia and Herzegovina, had managed to preserve internal stability and the multi-ethnic, multi-confessional and multicultural character of its society. It had also succeeded in preserving the prerequisites for upgrading and reforming the legal system and civil society and upholding the rule of law, respect for human rights and the rights of national minorities in accordance with its international obligations. The promulgation of the Constitution of the Federal Republic of Yugoslavia on 27 April 1992 had prompted large-scale legislative reform to ensure that the laws of the land were consistent with its provisions. Bills on criminal and law suit procedure were pending, the law on citizenship had been promulgated and the legal text for a bill on the ombudsman was being prepared. The Parliament of the Republic of Serbia was about to consider a bill on local self-government and a law on the media. Most of those legislative texts related, directly or indirectly, to implementation of the Convention.

5. The Constitution guaranteed a host of political freedoms and rights, including freedom of the press and other media without censorship, freedom of political, trade union and other forms of association and the right to public criticism of State authorities and officials. The Constitution guaranteed that all citizens were equal in the exercise of their freedoms and rights, irrespective of national origin, religious belief and so forth. Members of

minority groups in Yugoslavia, who accounted for some 30 per cent of the population, enjoyed special minority rights in accordance with relevant international instruments. The Constitution contained a series of provisions covering the rights and freedoms of national minorities including equality in respect of nationality, the right to develop and express ethnic, cultural, linguistic and other specificities and the right to official use of their language and alphabet, in parallel with the Serbian language, in areas inhabited by them. Members of national minorities were entitled to political organization and political representation and with the sole exception of the Albanian national minority in Kosovo and Metohija, availed themselves of that right and were thus able to participate in the social and political affairs of the country, with representation in government bodies from local to federal level.

6. Legislative and executive authorities at federal and republic levels provided for machinery for following up, monitoring and protecting the exercise of constitutional freedoms and rights. The Federal Ministry of Justice and its Sector for Human Rights and the Federal Ministry for Foreign Affairs played a particular role, as did the Office of Minister in the Government of the Republic of Serbia responsible for national minority questions. In the Republic of Montenegro competence for such issues rested with the Council for the Protection of Rights of Members of National and Ethnic Groups.

7. He referred the Committee to booklets containing topical data on such issues as education and languages in the territory of Yugoslavia, that were available for the Committee's perusal.

8. Mr. RECHETOV (Country Rapporteur) welcomed the resumption of dialogue between the Committee and the Federal Republic of Yugoslavia, particularly at a time when Yugoslavia was the focus of international attention and relations with one of its provinces, Kosovo and Metohija, were strained. The Committee would have to consider what advice and experience it could offer to help reduce tension in that area and prevent the conflict from escalating further.

9. His comments would be based on material drawn from documents of the Committee itself, reports of other human rights bodies of Special Rapporteurs of the Commission on Human Rights, and of non-governmental organizations (NGOs), and on court rulings.

10. In 1993, the Committee had discussed the report of the Federal Republic of Yugoslavia (Serbia and Montenegro) (CERD/C/248). In its concluding observations (A/48/18), it had expressed its hope that measures would be taken to counter extremism and ultranationalism on ethnic grounds. Of particular concern had been the deteriorating situation in Kosovo. The Committee had regretted the absence of dialogue between the Government and the leaders of the Albanians in Kosovo aimed at reducing tension and helping to prevent further massive human rights violations in the region. It had underlined that non-discrimination in the enjoyment of fundamental, civil, political, social and cultural rights must be effectively guaranteed in law and actively protected in practice if further ethnic unrest was to be avoided. The Committee had stated that it did not encourage unilateral trends towards separatism or secession and had advised the State Party that the best way to

discourage such phenomena was to promote and protect minority rights and interethnic tolerance and to strengthen the territorial integrity of the State by considering ways of assuring autonomy in Kosovo with a view to ensuring the effective representation of Albanians in political and judicial institutions and their participation in democratic processes.

11. Taking into account the Government's expressed wish to promote a dialogue with the Albanians in Kosovo, the Committee had offered its good offices for a three-person mission to help find a peaceful solution to issues concerning respect for human rights. The mission, in which he had taken part, had visited Kosovo at the end of 1993, and had worked tirelessly to do what it could to stop future ethnic unrest and prevent it from developing into armed conflict, and it had refused to support any separatist aspirations. At the time it had seemed that the mission had won the understanding of both the Yugoslav authorities and representatives of the Albanian community. It had initially focussed its work on preparing the ground for a normalization in the situation of education and health services. It had looked into the need for recognized educational curricula so as to ensure the renewal of a single system in schools and bring an end to the parallel system existing at the time. It had raised the question of education being provided on the basis of recognition of the 1990 educational curricula approved by the Albanians themselves as a step towards normalization.

12. Another major problem at the time had been health care. Albanian doctors had either left or been dismissed from State hospitals, leading to a deterioration of the health care system. The mission had addressed the question of the return of those doctors and medical staff.

13. The mission had also raised other issues. For example, representatives of the Albanian community had been assured by the members of the mission that complaints of alleged cases of ill-treatment of Albanians by the police and the security forces would be taken up with the Yugoslav authorities if the Albanians provided them with a specific list of such allegations. Unfortunately, during their stay in Kosovo, the members of the mission had not been given any such material.

14. The mission had also considered the involvement of the Kosovo Albanians in civil life. It had received information stating that not only had the Albanians failed to participate in parliamentary and local elections but also had not been counted in censuses. The former Special Rapporteur of the Commission on Human Rights, Mr. Tadeusz Mazowiecki, had noted earlier that Albanians had not voted in the election of judges either. Albanians were said to account for more than 80 per cent of the population of Kosovo: that meant that had they participated in the elections, the judicial system would have been one of their choice. But had Albanian judges been elected, they would have had to be sworn in under the rules of the Republic of Serbia, a circumstance which many Albanians would have considered to be an obstacles. He had recently seen material stating that had the Albanians participated in regional elections, they would have taken 80 per cent of the vote.

15. On the education system, the mission had found that in fact the curricula put forward by the Albanians and by the Serbs had not differed very substantially and it was therefore unclear why they had not been able to come to some form of agreement. Educational material was one stumbling block, because it was prepared at the level of the Republic of Serbia.

16. The members of the mission had further discussed with Albanian representatives questions regarding the mass media, especially radio and television, and labour legislation. They had been informed about steps taken at the behest of the International Labour Organization to repeal certain legislation passed by the local administration. It had emerged from discussions about the acquisition of flats and registration of local enterprises that those matters caused no great difficulties for the Albanian population.

17. The members of the mission had been determined to pursue their work because it seemed that they had a role to play as representatives of the international community, especially vis-à-vis the Albanians in Kosovo, and they had proposed to them a programme for dealing with specific issues relating to the everyday life of the population. When the work of the mission had been discussed in the Committee, many members had expressed the view that the fact that the situation in Kosovo had not worsened had perhaps been due in part to the mission.

18. The mission had also focused its attention on employment among Albanians in Kosovo, where the unemployment rate was very high, and on their participation in administrative and legal institutions. The hiring of Albanians by the police had given rise to considerable criticism. There had been complaints and allegations of harassment and persecution of Albanians by the police. During the discussion of those issues in the Committee, the question had been raised of autonomy for Kosovo and whether it might lead to secession from Yugoslavia.

19. Following a number of well-known events, a continuation of the mission had proved impossible. In 1995, the Committee had again raised the question of resuming the mission.

20. One important development which had been indirectly related to the activities of the mission had been the signing in Belgrade on 1 September 1996 by Slobodan Milosevic, President of the Republic of Serbia, and Ibrahim Rugova, the head of the Albanian Community, of a memorandum of understanding on the normalization of the educational system in Kosovo and the return of Albanian students and teachers to school.

21. Turning to the fourteenth periodic report of Yugoslavia (CERD/C/299/Add.17), he said that it was most informative, especially on legislation, but lacked specific information on actual practice. Concerning paragraph 7, for example, could the delegation of Yugoslavia provide specific examples of how the Convention was applied before the courts of law and/or administrative agencies?

22. In paragraph 8, reference was made to "Yugoslavs". He was unfamiliar with such a national group. As to the entry "Muslims", that was a term which usually referred to a religious group. Could the delegation of Yugoslavia explain those terms?

23. A problem to which the Special Rapporteur of the Commission on Human Rights on the situation in the territory of the former Yugoslavia had also drawn attention in her reports, was that in Yugoslavia there were three Constitutions: the federal, the Serbian and the Montenegrin. Presumably the three were not identical, and that would be expected to cause certain problems.

24. Concerning paragraph 10, the Committee would like to have examples, firstly, of any invalidation of a decision or other individual act adopted by the judicial, administrative and other State agencies or organizations discharging public duties which had violated the principle of freedom and equality of citizens and, secondly, of cases in which an injured party had received compensation for damage caused by an official, a State agency or organization which had committed such a violation.

25. Any data which the delegation of Yugoslavia could provide on the prohibition of activities carried out by political, trade union or other organizations to incite national, racial, religious and other intolerance or hatred (para. 11) would likewise be most useful. Once again, more specific information was needed on the decision-making procedure for banning political parties and citizens' associations (paragraph 12).

26. Paragraph 14 stated that the enjoyment of all constitutional freedoms and rights was exclusively linked to the status of citizenship identical for all citizens irrespective of their nationality. What was the situation of non-citizens?

27. Clarification was also sought on the statement concerning the list of rights of national minorities, in paragraph 15. Kosovo Albanians had asserted that they were permitted to display their symbols only in Serbian.

28. Concerning paragraph 22, the Committee would like to know whether the Law on the Publication of Federal Laws, Other Laws and General Enactments appeared in the language and script of the national minorities.

29. Could additional information be made available to the Committee on the possibility of bringing to court cases in which the media had used material instigating national, racial or religious intolerance (paragraph 24)? Regarding paragraph 25, what did "Radio-Television Serbia" mean? Was that simply the station's name?

30. In respect of paragraph 26 et seq., the Committee would like to have specific information showing that national minorities in the Republic of Serbia had the possibility of receiving an education in their language in primary, secondary and higher-level schools.

31. Concerning paragraph 31, he said that according to information available to the Committee, the many national minorities in the Autonomous Province of

Vojvodina coexisted harmoniously. The same could probably be said for the Republic of Montenegro, although he would like to have some specific examples to illustrate the statements made in paragraphs 35 to 38 regarding regulations in force in that Republic.

32. The report spoke of State bodies involved in questions relating to national minorities and monitoring respect for the rights and freedoms of those groups. Additional information on the work of those bodies was needed.

33. Regarding article 4 of the Convention, the report cited an array of legal provisions covering violations of the rights of national minorities. He asked whether in cases of unlawful acts perpetrated by the police, members of the armed forces or government officials, the legal provisions referred to in paragraph 50 were actually implemented and the persons concerned brought to justice. The same question applied to paragraph 51 in connection with cases of violations of civil rights for reasons of nationality or ethnic origin and paragraph 53 in respect of denial of the right to use a language or a script. Could examples be given of cases of punishment for incitement of national, racial and religious hatred (paragraph 54)?

34. With regard to implementation of article 5 of the Convention, he said that, judging from what was said in paragraph 63, it did not appear that there had been any positive developments in the Autonomous Province of Kosovo and Metohija, towards establishing contacts between the authorities and representatives of the Albanian community. The situation in Vojvodina, described in paragraph 64, on the other hand, looked quite promising.

35. As to the implementation of article 6, additional information was requested on paragraphs 68 and 71.

36. Regarding article 7, convincing information was provided on the teaching of minority languages in the Autonomous Province of Vojvodina. It would be useful to receive confirmation as to the accuracy of the statement in paragraph 80 that the members of the Albanian community had not yet submitted its curricula to the Ministry of Education of the Republic of Serbia. Was the Albanian community prepared to implement the Milosevic-Rugova agreement in actual practice? Paragraphs 81 and 82 indicated avenues which could be explored in the quest for a solution to the education problem and which, in his view, could serve as a good basis. If the Albanian community could not agree to the proposals contained in paragraph 82, then perhaps it could submit its own suggestions. The impression given in paragraphs 103 to 105 was that cultural establishments in Kosovo and Metohija were working in a reasonably satisfactory manner.

37. In her report, (E/CN.4/1998/15), the Special Rapporteur of the Commission on Human Rights, had come to the conclusion that in fact no concrete steps had been taken to put the agreement signed by President Milosevic and Dr. Rugova into practice. The joint commission tasked to implement the agreement had met several times, but the parties seemed to be locked in their positions (paragraph 65). The Commission had met

several times, but unfortunately the two sides had not been prepared to compromise. According to her information, discrimination against Albanians persisted, for example in connection with their right to buy and sell property.

38. Mr. Wolfrum, who had previously served as Country Rapporteur and was unable to attend the current session, had forwarded written comments in which, inter alia, he expressed support for many of the conclusions reached by the Special Rapporteur, particularly regarding the difficulties encountered by ethnic Albanians in purchasing property.

39. He drew attention to a document published by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/1996/35) containing a comparative survey of minority safeguards in Yugoslavia.

40. Lastly, he felt it appropriate to mention the verdict handed down in March 1995 by the Administrative Court of Brunswick, Federal Republic of Germany, in a lawsuit brought by a family of asylum seekers from the Autonomous Province of Kosovo and Metohija, notwithstanding the reservations expressed by one member of the Committee regarding the motivation of the judicial body concerned, which might have been under pressure to discourage a further inflow of refugees. The Jašari family's claim for asylum had been rejected by the Board of Judges on the grounds that actions taken in Kosovo which could be designated as persecution of ethnic Albanians were not directed against their ethnic affiliation but against political activities by separatists. Account had been taken of the findings of the German Ministry of Foreign Affairs, a letter dated 14 February 1994 from the United Nations High Commissioner for Refugees to the Supreme Administrative Court in Bavaria and statements to the Administrative Court of Munich in 1993 by Austria's representative in the Long-term Observer Mission for Kosovo, Sandzak and Vojvodina of the Conference on Security and Cooperation in Europe (CSCE).

41. He expressed the hope that the Committee could make a contribution, however small, to an improvement of the human rights situation in Yugoslavia and hence to stability in the region.

42. Mr. van BOVEN stressed the Committee's formal position that, even in cases where dialogue had been interrupted, States Parties continued to be bound by their obligations under the Convention. He was therefore extremely disappointed that the Committee's concluding observations on the previous report of Yugoslavia (A/48/18) had been ignored. He also regretted that there had been no follow-up to the good offices mission.

43. He agreed with the Country Rapporteur that the report, particularly paragraphs 12, 17, 6, 49, 51 and 71, described the existing legal framework but failed to provide practical examples of its application.

44. He also joined the Country Rapporteur in expressing the hope that the Committee could play a modest role in improving the situation in Kosovo. The report seemed to place all the blame on the ethnic Albanians, for example in

paragraphs 63 and 80, which depicted them as unresponsive and obstructionist. He drew the delegation's attention to the Committee's previous conclusions and recommendations (A/48/18), particularly paragraphs 538, 542 and 544.

45. With reference to article 5 of the Convention, paragraph 28 of the report by the Special Rapporteur (E/CN.4/1998/15) stated that there had been particularly serious violations in Kosovo of national and international law requiring that arrested persons be brought promptly before a judge. Apparently no action had been taken against police officers who had kept two persons in illegal custody, tortured them and misinformed the judge about the date of their arrest. Paragraph 31 referred to continued reports of torture and ill-treatment, particularly from Kosovo, and paragraph 32 to the brutal treatment of a demonstrator, Mr. Dejan Bulatovic. In conclusion, the Special Rapporteur recommended that immediate steps should be taken to end police abuse in Kosovo, to investigate police behaviour and to provide human rights training for law enforcement officers. He also drew attention to a report by the Special Rapporteur on two trials of Kosovo Albanians charged with offences against the State (E/CN.4/1998/9).

46. A statement by the Government of the Republic of Serbia dated 10 March 1998 had been circulated to the Committee. It stated that the recent activities of the Ministry of the Interior of Serbia in Kosovo and Metohija had been carried out exclusively with a view to combatting terrorism, that their scope was strictly limited and that their purpose was to liquidate the "terrorist core". He wondered whether the dead children and women shown in the media were members of terrorist gangs. The killings had reportedly taken place in houses and courtyards. Was that a justifiable means of combatting terrorism? He welcomed the Government's invitation to an expert group of the International Committee of the Red Cross to visit Kosovo and Metohija to "verify the rumours circulated in some media". He wondered whether such a group would be permitted to conduct autopsies in order to determine the circumstances in which certain persons had been killed.

47. Turning to the situation of the Roma minority in Montenegro, he referred to a case described by the Special Rapporteur in paragraph 83 of her report (E/CN.4/1998/15). Following the rape of a Montenegrin girl in Podgorica in April 1995 by a Roma boy who had subsequently been imprisoned, several hundred people had destroyed the houses and property of the local Roma community. No criminal proceedings had been initiated against the perpetrators until June 1997, when pressure from the Special Rapporteur had apparently produced the requisite response. He asked the delegation to inform the Committee of further developments.

48. According to paragraph 8 of the same report, the Government had consistently refused to meet its international obligations to hand over those indicted for war crimes and crimes against humanity to the United Nations International Criminal Tribunal for the Former Yugoslavia. It had been argued that suspected war criminals should be tried before domestic courts but, according to the Special Rapporteur, only one such trial had taken place. He wished to hear the delegation's comments on what he viewed as a matter of serious concern.

49. Mr. DIACONU said it was ironic that Yugoslavia had only recently been a champion of minority causes and had initiated in 1978 the negotiations which had led to the adoption by the General Assembly in 1992 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

50. He regretted that the good offices mission initiated in 1993 had been interrupted and that neither the United Nations nor the Government of Yugoslavia had found a way of surmounting the formal obstacles and allowing the mission to continue.

51. Autonomy or self-government was neither a minority right nor a government obligation but a means of achieving certain political or human rights objectives. The scope of the autonomy to be accorded to a minority was an internal issue for individual countries and minorities were free to seek autonomy through peaceful democratic processes but not to use violent means.

52. He failed to understand why the Milosevic-Rugova agreement on education signed in September 1996 had not been implemented. How did the Government of Yugoslavia propose to address the issues involved?

53. Paragraph 17 of the core document (HRI/CORE/1/Add.40) stated that languages and alphabets of national minorities were officially used in areas of Yugoslavia inhabited by national minorities. It was clear from the report that, while Montenegrin law provided for the use of minority languages, including Albanian, for administrative and other purposes, the Republic of Serbia assigned jurisdiction in such matters to the municipalities. As a result, the problem of use of minority languages had been solved in Vojvodina but not in Kosovo. He felt that Serbia should follow Montenegro's example and address the issue in legislation at Republic level. He asked the delegation to specify the extent to which the Albanian language was used in Kosovo for toponyms, in judicial proceedings and in the activities of public bodies.

54. Paragraph 18 of the core document included some 130,000 Wallachians in a statistical breakdown of the population by mother tongue but they were not included in the list of minorities. Did they belong to the group known as Macedo-Romanians or Aromanians? Had they access to facilities for mother-tongue instruction?

55. With regard to the situation in Kosovo, any action against terrorist groups must be proportionate to the objectives pursued and involve a minimum of destruction to human life and property. As the report admitted that the terrorists were a small minority, there was no reason to inflict suffering on the entire ethnic Albanian population. How did the authorities intend to compensate families whose homes had been destroyed?

56. Mr. VALENCIA RODRIGUEZ said the reported measures being taken by the State Party were largely consistent with the provisions of the Convention. Of course there were shortcomings, especially in terms of the application of legislation. Formulation of the Committee's comments on the implementation of

the Convention, important as it was, would, however, have to yield in importance to the grave events taking place in Kosovo, which had escalated to such an extent that they risked unleashing war in the Balkans and neighbouring countries and seriously endangering international peace and security. That threat had to be dealt with as soon as possible. The Committee could not remain silent in the face of the major violations of fundamental rights being reported in the province, and was alarmed by the continued military operations. Any military solution would mean only greater problems and more use of force.

57. The Committee was obviously not competent to deal with political issues, which were undoubtedly at the heart of the situation in Kosovo or with the ongoing confrontation there. It could only address matters relating to the Convention. The current situation did not, however, allow for due implementation of the Convention. There were charges of a wave of armed persecution of the Albanian population in Kosovo, which violated not only the Convention but other international human rights instruments to which Yugoslavia was a party. How could the elimination of racial discrimination be considered under those circumstances? The Committee's major concern, rather, should be to urge the Government to cease the armed confrontation and to put all its efforts into seeking a negotiated, peaceful solution and avoiding an aggravation of the problem. That appeal should naturally also be directed to the leaders of the Albanian population in the province.

58. Mr. GARVALOV said that, at the time of the Committee's good offices mission in 1993, he had stressed that the Committee had provided the only good offices mission - as opposed to an investigative, on-site or other type of mission - to discuss the problem of Kosovo, at the Government's invitation. He was discouraged that nothing had come of that mission, and perhaps the Government should be informed of the Committee's interest in resuming it.

59. Much of the report was instructive, for instance on the implementation of article 7 of the Convention, but more specific information was needed.

60. The situation in Kosovo had escalated since 1989, and had reached the point during the previous week where, although it involved violations of human rights and racial discrimination, it had become a political issue. The Committee was on record as saying it could in no way condone unilateral attempts at secession or destruction of the territorial integrity of States Parties. But the situation showed how a simple problem which had perhaps begun with acts of racial discrimination some decades earlier but which had never been resolved could ultimately lead to an almost intractable political problem.

61. In the case of Kosovo, it was difficult in the circumstances to ask for the promotion of understanding, tolerance and friendship, which were called for under article 7. People's minds could not be changed overnight; it would be a very lengthy process, and he wished the State Party well in resolving the issue.

62. Quoting a headline in the 9 March 1998 edition of the International Herald Tribune, he said that the situation in Kosovo was a matter of global concern. In its statement of 10 March, the Government of the Republic of Serbia had made a clear distinction between terrorists and terrorism on the one hand and the members of the Albanian national minority on the other. In paragraphs 80-81 of the report, however, the only reference was to "the Albanian separatists"; the use of the definite article was significant. Would the State Party clarify how it viewed the Albanians in Kosovo - were they all separatists, or only some?

63. Paragraph 8 listed Muslims as one of the groups in the country's demographic structure. Were they ethnically different from Serbs or other minorities, or were they different because of their affiliation to the Muslim faith? Did the 26,922 Bulgarians in the country really have the kind of equality and freedom described in paragraph 15 under the constitutional provisions on national minorities? They had been voicing their grievances, and that was one reason why the Special Rapporteur of the Commission on Human Rights had referred to Bulgarians in her special report on minorities (E/CN.4/1997/8). Those Bulgarians claimed that there were not enough classes with instruction in Bulgarian and not enough radio and television broadcasts in the language; that there was no official support for opening Bulgarian cultural centres or for the reconstruction of dilapidated Bulgarian churches; and that they were being subjected to pressure because they wanted to claim their Bulgarian ethnicity while remaining law-abiding citizens of Yugoslavia.

64. Although the report mentioned that there were three daily newspapers, and regular radio and television broadcasts, in Turkish, it did not list Turks as a separate minority in the country's demographic structure. That there were 3,149 hours of radio and television broadcasts in Turkish as against 105 in Bulgarian (paragraph 97) suggested that there must be a sizeable Turkish minority, perhaps 100 times larger than the Bulgarian minority. Clarification was needed. Had the authorities assessed the effectiveness of their educational and teaching policies? That had become a major issue for the joint working group of the Committee and the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

65. Mr. SHERIFIS asked for statistics, as well as examples, of participation by members of the various national minorities in the country's political life. Did they have equal access to the civil service and to the executive, judicial and legislative branches?

66. What was the State Party doing about the requirement in the Committee's General Recommendation V that it should propagate the purposes and principles of the Charter, human rights declarations and the Convention? The Special Rapporteur had recommended in her report to the fifty-second session of the General Assembly (A/52/490, para. 206), that the Government should establish a programme of human rights education in schools, academic and legal institutions as well as in police training institutions, and that it should encourage wider and deeper knowledge of the human rights treaties to which Yugoslavia was a party as well as their direct application in court proceedings. Those recommendations also appeared to be very relevant.

67. What had happened to the agreement on education between President Milosevic and the leader of the Kosovo community? What were the chances of its being implemented? It would doubtless prove beneficial, not only to the residents of Kosovo but to Yugoslavia as a whole and to the cause of peace throughout the country and region. He supported Mr. Valencia Rodriguez's appeal in that regard. What was the State Party's reaction to the suggestion that the Committee might make a contribution either by resuming the good offices mission or in another manner?

The meeting rose at 6 p.m.